IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN INSOLVENCY

PETITION NO.32 OF 2005

Re: Marzban Kevi Elavia ..Debtor.

Ex parte:

Kantilal Otarmal .. Petitioning Creditor.

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Mr. Kishore Jain for the Petitioning Creditor.
Debtor present in person.

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CORAM: DR. D.Y. CHANDRACHUD, J.

19th August, 2006.

P.C. :

The Debtor is present before the Court in person. The Petition is based on a decree passed by the City Civil Court in Summary Suit 2330 of 1998 in the sum of Rs.97,137.55 together with interest at the rate of 18% per annum on the principal sum of Rs.40,000/- from 13th October, 2004 until payment. An insolvency notice was issued on 18th November, 2004 which was duly served on 9th December, 2004. The act of insolvency was complete on 14th January, 2005. The Debtor who is present before the Court has stated before the Court that he has to undergo a surgery and

he has prayed for time to pay the installments. During the course of the hearing of the proceedings, it has been agreed between the learned counsel appearing for the Petitioning Creditor and the Debtor that the Debtor shall pay an amount of Rs.70,000/- in full and final settlement of the decretal dues in installments, the first of which shall be paid on or before 7th November, 2006. Accordingly, by consent the following order is passed :

i) In the event that the Debtor pays an amount of Rs.70,000/- towards the decretal dues arising out of the decree in Summary Suit 2330 of 1998 in the manner indicated herein below the decree shall be marked as satisfied. The amount shall be paid to the advocate on record of the Petitioning Creditor against valid receipts;

ii) The Debtor shall pay a total sum of Rs.70,000/- in monthly installments of Rs.10,000/-, the first of which shall be paid on or before 7th November, 2006 while the subsequent installments shall be paid on or before the 7th day of each succeeding month;

iii) In the event that there is any single default in making of

the aforesaid payment, the entire amount due and payable under the decree shall become due and payable and there shall be an order of adjudication in terms of prayer clauses (a) and (b);

iv) Counsel appearing for the Petitioning Creditor shall inform the Insolvency Registrar upon payment being made or, as the case may be, in the event of default. In the event that the payment is made, the Petition shall formally be placed for directions as to disposal.